



State of Connecticut

## **DIVISION OF PUBLIC DEFENDER SERVICES**

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### **Testimony of Michael Alevy, Senior Assistant Public Defender Office of Chief Public Defender**

#### ***Raised Bill No. 1159***

#### **An Act Concerning Court Actions Filed By Inmates Judiciary Committee Public Hearing March 21, 2011**

The Office of Chief Public Defender has serious concerns about subsection (c) of section 1 of *Raised Bill 1159, An Act Concerning Court Actions Filed By Inmates*.

Subsection (c) of the raised bill would deny a waiver of fees and costs for fees payable to the court or the costs of service of process in any civil matter filed by an inmate who has had three or more previous complaints or appeals dismissed by a state or federal court on the grounds that such complaints or appeals were frivolous, malicious or failed to state a claim upon which relief may have been granted. The only exception to this blanket denial of such a fee waiver would be in the case where the waiver was necessary to prevent imminent serious physical harm to the inmate.

This Office is concerned that because there is no provision for a waiver of fees and costs in the case of indigence, this subsection of the raised bill unreasonably limits a truly indigent inmate's access to the court. A newly raised complaint or appeal should be decided on its merits and not be precluded simply because of the number or outcomes of prior actions. Courts have the inherent authority to dismiss and deny complaints or actions found frivolous or without merit. To deny an inmate the ability to even file an initial compliant represents a failure to comport with basic concepts of fairness and access to courts.

For these reasons the Office of Chief Public Defender opposes this raised bill.